

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DONNA J. THOMAS, ADMINISTRATRIX OF	)	
THE ESTATE OF ANDRE THOMAS,	)	
DECEASED, ON BEHALF OF THE ESTATE	)	
OF ANDRE THOMAS,	)	
	)	
Plaintiff	)	Civil Action No. 09-996
	)	
V.	)	Judge Nora Barry Fischer
	)	
BOROUGH OF SWISSVALE, DEBRA	)	
LYNN INDOVINA-AKERLY, JUSTIN	)	<b>JURY TRIAL DEMANDED</b>
LEE KEENAN and GARY DICKSON,	)	
	)	
Defendants	)	

**DEPOSITION TRANSCRIPT EXCERPTS**

**OF**

**ABDULREZAK SHAKIR, M.D.**

**EXHIBIT 2**

**TO**

**PLAINTIFF'S MOTION TO EXCLUDE EXPERT TESTIMONY OF  
DEBORAH MASH, PH.D. AND ANY EVIDENCE REGARDING AN  
ALLEGED CONDITION REFERRED TO AS EITHER EXCITED  
DELIRIUM, AGITATED DELIRIUM AND/OR DRUG-INDUCED  
DELIRIUM**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

- - -

1	DONNA J. THOMAS, Administratrix	)	
2	of the Estate of ANDRE THOMAS,	)	
3	Deceased, on behalf of the Estate	)	
4	of ANDRE THOMAS,	)	
5		)	
6	Plaintiff,	)	
7	vs.	)	Civil Action
8		)	No. 2:09-cv-996-NBF
9	BOROUGH OF SWISSVALE; DEBRA LYNN	)	
10	INDOVINA-AKERLEY; JUSTIN LEE	)	
11	KEENAN; and GARY DICKSON,	)	
12		)	
13	Defendants.	)	

- - -

DEPOSITION OF ABDULREZAK SHAKIR, M.D.

MONDAY, JULY 18, 2011

Deposition of ABDULREZAK SHAKIR, M.D.,  
called as a witness by the Plaintiff, taken pursuant  
to Notice of Deposition and the Federal Rules of Civil  
Procedure, by and before Joy A. Hartman, a Registered  
Merit Reporter and Notary Public in and for the  
Commonwealth of Pennsylvania, at the offices of County  
of Allegheny, Office of the Medical Examiner, 1520  
Penn Avenue, Pittsburgh, Pennsylvania, commencing at  
1:30 p.m. on the day and date above set forth.

MR. MESSER: Several.

A. Several of them. At least several of them. I don't remember.

Q. Ten? Less than ten?

A. It can be ten. It can be, yes. More than ten.

Q. But less than 20?

A. I really don't have an idea.

Q. Now, during the time that you performed autopsies for the Medical Examiner's Office and the Coroner of Allegheny County, was it your understanding that as the prosecutor on the cases, you were to determine the cause of death of the unfortunate deceased?

A. Yes.

Q. Is this done just by yourself, or is there a process by which the Medical Examiner's Office undertakes to review the autopsies that are performed by the forensic pathologists here?

A. That question, I have to explain. In some occasions where the cause of death is obvious, I determine that on the autopsy, and it will be my determination, and the Medical Examiner will be reviewing my report at the end.

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In some cases where there are questions to be asked and we want to go for further investigation on the case, whether it is medical investigation or whether it is other investigations, most of the time, I will leave the cause of death at the end of the autopsy as "pending this investigation."

In these situations and in some other situations like that, complicated situations, in these situations, I might discuss that with the Medical Examiner, and I might even discuss it with other pathologists before reaching the determination.

But in general, it is my responsibility to determine the cause and manner of death of that individual.

Q. So would it be fair to say if somebody comes in with a gunshot wound between the eyes, it is fairly obvious what happened?

A. That's what we say, yes. In some such situation, I will not leave the cause of death as pending other investigation, because it is obvious. The manner of death might be pending other investigation, but this is obvious.

But in cases where there are multiple factors

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working, where there is no quick possibility of a definite determination, in these cases, we usually -- the pathologist will leave it as pending whatever investigation, and then later on, we reach that.

Q. In fact, that was the situation in the André Thomas case; is that right?

A. Yes. That is the situation in the André Thomas case, and in multiple of these in-custody deaths. Usually, it is not quite obvious.

The only time it is obvious is like when the police shoot the individual, and that is the easy ones.

Q. Sure. Well, you are obviously experienced in stating the cause of death after your autopsies, after consultation or without, correct?

A. Yes.

Q. In this situation that we are here today about, which is namely Mr. André Thomas, did you reach the determination as to cause of death, or did Dr. Williams reach the determination as to cause of death?

A. I will put it this way: I reached the determination as to the cause of death after discussing the case with Dr. Williams. He is the

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Medical Examiner, and we both agreed on this.

Q. Now, had you ever in any other case established the cause of death of an individual in any situation as being the cause of death you ascribed for André Thomas as agitated delirium?

A. Yes.

Q. On how many different occasions had you done that?

A. I remember at least two or three situations.

Q. Now, you are aware that there is a great deal of controversy about agitated delirium and excited delirium, true?

MR. HAMILTON: Object to the form.

A. Yes.

Q. Do you consider yourself or is the Medical Examiner's Office capable of diagnosing either agitated or excited delirium in-house?

MR. HAMILTON: Object to the form.

A. Yes. We have done this diagnosis before. We might consult with other places, like in this situation. For example, we sent specimens from the brain to this laboratory down in Florida, who they have certain tests which they can decide whether it is

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1 cocaine in the benoylegonine, which is also another --  
2 that is another active metabolite of cocaine, so  
3 definitely, he was under the influence of cocaine, and  
4 cocaine by itself can cause him to go into arrhythmia  
5 and death.

6 Q. Then if you had that information, why did you  
7 put one cause of death in the autopsy report being  
8 agitated delirium?

9 A. I did not put only agitated delirium. I put  
10 agitated delirium as a result of acute cocaine  
11 intoxication. So I put acute cocaine intoxication.

12 Q. And "acute" just means immediate, right?

13 A. Yes.

14 Q. Now, what led you to the diagnosis of agitated  
15 delirium?

16 A. It is --

17 Q. What facts did you have in your possession that  
18 led you to the diagnosis of agitated delirium as the  
19 cause of death?

20 A. From the clinical information that I have  
21 received, our information goes with the diagnosis of  
22 agitated or excited delirium.

23 Q. What was the clinical information, then, that

1 you had?

2 A. The clinical information is that an  
3 individual --

4 (Off the record for cell phone interruption.)

5 A. -- is that an individual who is -- an  
6 individual who was agitated, incoherent, going around,  
7 knocking on doors of houses, stating that there are  
8 people going to get him, or there are people going to  
9 kill him, and those individuals who saw him, they are  
10 the individuals who call 911; and then everybody came,  
11 and then the police and the others came.

12 Q. Anything else?

13 A. The information that I get from the police is  
14 the same as I get about him being incoherent and  
15 agitated and shouting and all this.

16 Q. Is that type of behavior consistent with, for  
17 example, neurotic or psychotic behavior?

18 A. It is psychotic in a way, and it can be seen in  
19 individuals under certain drugs like cocaine.

20 Q. Is there any indication in any of the  
21 information you received that Mr. Thomas attacked the  
22 police or confronted the police or in any way  
23 committed a crime?

1 MR. HAMILTON: Object to the form.

2 A. No.

3 Q. Why was it in this case that you sent samples  
4 or slides of Mr. Thomas' body, and I think it was only  
5 the brain, wasn't it?

6 A. Yes, the brain.

7 Q. To Miami to be examined by Dr. Mash?

8 A. Dr. Mash is conducting a study differentiating  
9 excited delirium due to cocaine or excited delirium  
10 not due to cocaine, and we started sending samples to  
11 her in that respect.

12 Q. How many samples have you sent to her? Have  
13 you sent -- other than André Thomas' case, have you  
14 sent other samples to her?

15 A. Yes.

16 Q. On how many different occasions?

17 A. I don't remember, because some of them might be  
18 cases that I worked on, and some of them might be  
19 cases other pathologists worked on.

20 Q. What do you understand that she does when she  
21 receives these slides, if you know?

22 A. She conducts a study regarding the receptors in  
23 the brain, and according to the receptors, she reach

1 that conclusion -- According to her, she reached the  
2 conclusion that it was delirium.

3 Q. Why did you feel it was necessary to give this  
4 information to her?

5 A. In our -- when we are trying to reach the cause  
6 of death, the cause and manner of death, we try to get  
7 whatever help we can get or whatever assistance or  
8 clarification. She was doing this study, and we felt  
9 that it might be a confused to us to send.

10 Q. As you know, this case had some publicity  
11 surrounding it.

12 A. Most of these cases have some publicity  
13 surrounding them.

14 Q. And Dr. Williams in the press, and I'm not sure  
15 you were ever quoted, indicated that they were not  
16 going to release the cause of death until the studies  
17 were completed in Miami.

18 A. He might have said that, yes.

19 Q. Why was he waiting on those studies? If you  
20 had already reached a diagnosis or a cause of death,  
21 why was he waiting for those studies?

22 A. We did not reach the diagnosis until after we  
23 get all of those studies.

1 Q. Did all of the studies that you made then  
2 confirm this cause of death?

3 A. I believe so, yes.

4 Q. And Dr. Mash's report confirmed that, as well,  
5 true?

6 A. Yes.

7 Q. What other studies were there beside Dr. Mash?

8 A. The toxicology.

9 Q. Positive for ethanol and cocaine?

10 A. Yes, and for cocaine, yes.

11 Q. At the point that you knew he had acute cocaine  
12 toxicity, why didn't you diagnose his death then?

13 A. If this was 1990, I would have diagnosed it at  
14 that time; but the more science gets complicated and  
15 the more there are more specialized studies of these  
16 things, we will try to make use of them.

17 Q. So is it fair to say without Dr. Mash's report  
18 you would not have diagnosed him as a death caused by  
19 acute agitated -- I'm sorry -- agitated delirium?

20 MR. HAMILTON: Object to the form.

21 A. I would -- without her report, I would diagnose  
22 it as cocaine intoxication, as death due to acute  
23 cocaine intoxication. To me, using the term agitated

1 delirium or not agitated delirium does not really have  
2 that much importance. To me, this is a complication  
3 of acute cocaine intoxication.

4 Q. I just want to ask you, Doctor, I think you  
5 have in front of you the autopsy report of August 5,  
6 2008, Case No. 08C0R04828, which I believe relates to  
7 André Thomas; is that correct?

8 A. Yes.

9 MR. MESSER: Do you all have a copy? This  
10 will be No. 1.

11 (Shakir Deposition Exhibit No. 1 was  
12 marked for identification.)

13 Q. Do you know, again, of any studies that measure  
14 the impact of a TASER on a person who has used  
15 cocaine?

16 A. Specifically on a person who has used cocaine,  
17 I don't remember of any study of this type.

18 Q. The reason I am asking is that in this  
19 situation, I think your records reflect that he was  
20 Tasered.

21 A. Yes.

22 Q. And some of the records reflect that he was  
23 Tasered one time. In fact, he was Tasered three

1 times.

2 A. In fact, the police report indicated that he  
3 was Tasered three times. The point of insertion of  
4 the tip of the TASER on him, I only saw one, and it  
5 could be one, and then --

6 Q. I am not trying to say you are wrong in your  
7 report. I am just saying can we agree it was three  
8 times?

9 A. Yes.

10 Q. I mean, he was shot once, and then they pulled  
11 the trigger three times?

12 A. Yes. It was three times.

13 Q. That is what you meant to say?

14 A. Yes.

15 Q. Now, do you know from your personal knowledge  
16 whether or not there has been any attempt to determine  
17 the impact of multiple TASERs on a person who displays  
18 the symptomatology of what we have called agitated  
19 delirium?

20 A. In general, there are a lot of studies  
21 regarding the TASER's effect and the safety in regard  
22 to the TASER's effect; and there were animal  
23 experimental studies, there were mainly animal

1 experimental studies in regard to arrhythmias after  
2 TASERs with these things. So there are a lot of  
3 studies in this respect.

4 Q. And there are studies that show that the TASER  
5 can cause arrhythmias?

6 A. There are studies that believe that the TASER  
7 can cause arrhythmias, and especially if the TASER  
8 happened in certain areas of the body, which is in the  
9 vicinity of the heart; and, in fact, there was an  
10 experiment which indicated that it resulted in  
11 arrhythmia when the distance between the TASER  
12 electrode and the heart was only a few millimeters or  
13 less than one centimeter.

14 And there are people who believe that the TASER  
15 can cause arrhythmia. There are other people that the  
16 TASER is safer than both of us.

17 Q. But you are not telling us you have an opinion  
18 about that, are you?

19 A. In this situation, the point of the TASER  
20 electrode was to the back, to the lower back  
21 (indicating) and this is a position that according to  
22 the studies on the TASER did not really consider have  
23 a big danger in resulting in arrhythmia. TASER

1 Pathology Examination"?

2 A. Where is that?

3 Q. It is the first paragraph, sir.

4 A. Oh, yes.

5 Q. What does that first paragraph mean in lay  
6 terms?

7 A. She did a neurochemical, which means that  
8 chemically, she examined the brain, the neuro-  
9 transmitters or the brain or something like that.

10 Q. You are not familiar with what this means, I  
11 guess? I am just trying to find out what she did. It  
12 says she dissected something from the frozen specimen  
13 for neurochemical measurement. Do you know what type  
14 of neurochemical measurement she was making?

15 A. I have no idea. I think the best way is you  
16 can ask her.

17 Q. I am just trying to find out what this means,  
18 frankly, because I don't understand it. It says,  
19 "density of binding sites." Do you know what binding  
20 sites are?

21 A. The binding sites are the sites where the  
22 transmitter will go and bind to the cell to result in  
23 whatever action it is. That is my understanding of

1 it, and she is talking about the sites on the Dopamine  
2 transporter, the binding sites on the Dopamine  
3 transporter.

4 I am guessing like you. I don't have much idea  
5 about that.

6 Q. Believe me, if you don't know, just tell me you  
7 don't know, and I will go to the next question. I am  
8 just trying to educate myself, because I don't have  
9 any idea what most of this means. If you know, tell  
10 me. If not, just tell me.

11 A. Okay.

12 Q. In the second paragraph, it says, "A  
13 neurochemical analysis of the number of Dopamine  
14 transporters was completed on this case. The density  
15 and affinity binding parameters were assayed within  
16 the ventromedial putamen" -- am I pronouncing that  
17 right?

18 A. Yes.

19 Q. P-u-t-a-m-e-n -- "using a selective radioligand  
20 and a validated neurochemical assay." Okay? Do you  
21 know what that means?

22 A. As I indicated, it would be better to go to Dr.  
23 Mash and ask her to explain that to you.

1 Q. So you don't know that this means?

2 A. No, I don't.

3 Q. Now she has here, "Reference specimens were  
4 included in the assays for direct comparison to  
5 normalized values determined for control subjects and  
6 victims of agitated excited delirium." You don't  
7 know?

8 A. Ask her.

9 Q. "The results demonstrated that this case," and  
10 I am assuming she means the André Thomas case, "had an  
11 elevated number of Dopamine transporter sites, as  
12 compared to age-matched and drug-free control  
13 subjects." Ask her?

14 A. (The witness nods his head.)

15 Q. You got to say "yes."

16 A. Yes.

17 Q. "The values are provided below," and it says in  
18 parentheses, "Table 1 and Figure 1," and then it  
19 continues, "and are compared to the reference  
20 parameters determined for control subjects, chronic  
21 cocaine abusers, and victims of cocaine-related  
22 delirium." Ask her?

23 A. Yes.

1 Q. Do you know what this table means, Table 1?  
2 Can you interpret that for me?

3 A. I don't have any idea.

4 Q. Is that true for the rest of the report, as  
5 well?

6 A. Yes. The rest of the report, and the main  
7 result that I can see from her report is that she said  
8 that this is a relationship between psychiatric  
9 symptoms and combined metoprolol, which is also  
10 another drug, and cocaine abuse. This is suggested by  
11 the known effects of metoprolol in the CNS. High  
12 concentration of this metoprolol has been associated  
13 with disrupted sleep-wake situation.

14 Q. I'm sorry. What page are you on?

15 A. The last page.

16 Q. The second page?

17 A. The second page. It says that, "The review of  
18 the incident report for this case suggests that the  
19 decedent was suffering from a drug-induced delirium  
20 prior to death."

21 Q. So that is what you were interested in her  
22 saying?

23 A. Yes.

1 Q. This other stuff you don't have any idea about?

2 A. Yes. This other stuff, she is just explaining  
3 her way of doing and her way of reaching her  
4 conclusion.

5 Q. Now, do you see on page 3 -- well, it is what  
6 is marked page 4, but it is page 3 of her report?

7 A. Yes. Yes.

8 Q. And it looks like some sort or a chart or a  
9 graph?

10 A. Yes.

11 Q. Can you interpret it?

12 A. Yes.

13 Q. It says, "Figure 1: Equilibrium saturation  
14 binding" -- Oh, boy.

15 A. -- "on membrane homogenates taken from  
16 Allegheny County." I think you get it better if you  
17 ask her.

18 Q. Is it fair, then, to say when you read her  
19 conclusion that this was an agitated delirium, that  
20 you accepted that conclusion from her report?

21 A. Yes. And in fact, if you put the whole thing  
22 together, it is a case of cocaine intoxication  
23 resulting in the agitated delirium, resulting in the

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1 death. Clinically, it is like that, with her report  
2 or without her report.

3 Q. What actually killed him?

4 A. Arrhythmia.

5 Q. What physiological --

6 A. Arrhythmia, cardiac arrhythmia.

7 Q. How do you know that?

8 A. Because there is no other obvious reason for  
9 that. The mechanism in cases of cocaine intoxication  
10 and in agitated delirium and cocaine intoxication, the  
11 mechanism of death is arrhythmia.

12 Q. So if a person knows that an individual has a  
13 symptomatology of acute cocaine intoxication, what  
14 should they do?

15 MR. HAMILTON: Object to the form.

16 A. They should observe them. They should attempt  
17 to take care of them, try to calm them down, and all  
18 they can do is observe them.

19 Q. I believe you told me earlier in the deposition  
20 that the reason that you were waiting for Dr. Mash's  
21 report was to confirm the diagnosis of agitated  
22 delirium. Is that still your testimony?

23 A. That was a possibility.

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1 Q. Is it still your testimony?

2 A. Yes. I mentioned that earlier in the years, we  
3 used to diagnose that as cocaine intoxication without  
4 the results of her tests. Now with these tests  
5 available, we are trying to see if this could support  
6 us more in this reasoning.

7 Q. Are there any studies, to your knowledge,  
8 indicating that Tasing someone in a state of  
9 excitement may exacerbate the excitement?

10 A. Well, I don't need the studies to do that; but  
11 that is an obvious --

12 Q. It would exacerbate the excitement?

13 A. Definitely, because they would get pain due to  
14 the Tasing, and they would get more excited.

15 Q. I don't have a lot more left; but earlier in  
16 the deposition, we talked about the fact that this was  
17 a pending autopsy, so your process would be to  
18 internally review the matter.

19 A. Yes.

20 Q. I know that based upon Exhibit No. 1, you  
21 talked with Dr. Williams about this?

22 A. Yes. Right.

23 Q. Do you remember talking to anybody else?

1 A. I don't remember for that, but we might have  
2 discussed it in the office with other pathologists,  
3 but I don't even remember at that time who were the  
4 pathologists; but definitely, Dr. Williams -- that  
5 final decision is done after discussion with Dr.  
6 Williams, yes.

7 Q. So is it fair to say, then, he is the only one  
8 you ever remember discussing this with?

9 A. Yes.

10 Q. You didn't talk to Dr. Mash about this?

11 A. No.

12 Q. How about the District Attorney?

13 A. No.

14 Q. Did you speak with the District Attorney or  
15 anybody from his office?

16 A. No.

17 Q. Now, you were not the only person who attended  
18 the autopsy, as I understand it; is that right?

19 A. Yes. There were technicians, there was a  
20 photographer, and there were some --

21 Q. The police were there, too?

22 A. Yes, the police were there.

23 Q. Who where the police that attended? Do you

(Shakir Deposition Exhibit No. 7 was marked for identification.)

Q. I will show you Exhibit No. 7.

A. This is part of the hospital record from UPMC Braddock Hospital.

Q. That is where he was taken after the police incident?

A. Yes.

MR. MESSER: We may be mostly done. I think if we could have one copy for her before she goes.

(Recess taken at 2:50 p.m., and testimony was resumed at 2:54 p.m. this date.)

Q. I will show you what is marked as your Deposition Exhibit No. 5, Dr. Shakir, which is the — it is the narrative?

A. Yes.

Q. Could you turn to page 4, please?

A. Yes.

Q. Would you please take time to read that?

A. Do you specifically want me to look at anything to read in it, or are you concerned about anything in it?

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Q. Well, I will tell you what my concern is. What my concern is is that it is one-sided. The only thing on here is police information. Do you see any information on page 4 of Exhibit 5 that involves witnesses' account of what occurred?

A. You see, this is preliminary information that we receive. We receive it from the person who calls us.

Q. Sure.

A. We do not — at this stage of the investigation, we do not have our investigators down soliciting witnesses. This is the information that they receive. Whoever will call in such a situation, the person that they call is the police usually to see what happened, and so you see information from the hospital, information from the police, and this is why you get that.

Q. Well, were you aware at the time you issued your final autopsy report and the death certificate that there were several witnesses who reported that Mr. Thomas had been beaten prior to his death?

MR. HAMILTON: Object to the form.

MR. MESSER: I am just asking if he is

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aware.

MR. HAMILTON: Well, you said several witnesses, and I don't think there are several witnesses, but that's okay.

MR. MESSER: There are at least four that I know of out of your reports, so I think that is several.

Q. Were you aware of that?

A. No.

Q. If, in fact, that beating had occurred, could that have contributed to Mr. Thomas' death?

A. I have to see what kind of beating and how it happened; but the findings in my autopsy, I didn't see any internal injury that could have resulted in his death.

Q. Well, you found the hematoma on his spine —

A. Yes.

Q. — after you opened his skin, right?

A. Yes.

Q. And that hematoma was an injury that you reported in your autopsy report, was it not?

A. Yes.

Q. Now, the only way that that hematoma could have

occurred is if something had come into contact with Mr. Thomas' body at that point, true?

A. Yes. But what I meant is I did not see any contusion of the heart. I did not see any intracerebral hemorrhage. I did not see any injury inside him that explained his death.

Q. Explained what?

A. Explained the death, to be a cause of death.

Q. Oh, no. I am not asking you if it was a cause of death. I am asking you if, in fact, he was beaten, would it have contributed to his death?

MR. HAMILTON: Asked and answered. I object.

A. I don't see in which way it is contributing.

MR. PUSHINSKY: Could it have contributed to the agitation?

THE WITNESS: The agitation, yes. From being agitated, yes.

Q. Would those facts have been important to you at the time you issued your autopsy report?

MR. HAMILTON: Object to the form.

A. In fact, at the time, I would have liked to have the knowledge about these.